



Session 4:

Foundations for ICWA Cases in Alaska

“Indian Child”

“Child Custody Proceeding”

“Child in Need of Aid”

Case Hypothetical

[http://ak.lyrnd.com/02_slideshows/
m1/cae_hypotetical.html](http://ak.lyrnd.com/02_slideshows/m1/cae_hypotetical.html)

Indian Child

ICWA applies if child is an “Indian child”

- Definition:
 - Member of federally recognized Tribe; or
 - Eligible for membership and a biological child of a Tribal member
- Tribe’s determination of “membership” and “eligible for membership” governs
- Not all Native children are “Indian children”
- ICWA standards apply to non-Native parent

Indian Child – “Reason to Know”

- Court must ask participants if they know or have “reason to know” child is Indian child
- If “reason to know,” court must:
 - Confirm that OCS used due diligence to identify and verify child’s status
 - Treat child as Indian child unless determined that child is not Indian child
- “Reason to know” defined

ICWA Proceedings

ICWA applies to “child custody proceedings”

- Foster care placements
- Termination of parental rights
- Preadoptive placements
- Adoptive placements

ICWA does not apply to:

- Divorce/custody actions between parents
- Juvenile delinquency cases

Child in Need of Aid

- | | | | |
|----|---------------------------------------|-----|--|
| 1. | Abandonment | 8. | Mental injury |
| 2. | Incarcerated parent | 9. | Neglect |
| 3. | Custodian unable or unwilling to care | 10. | Substance abuse by parent |
| 4. | Medical neglect | 11. | Mental illness or disability of parent |
| 5. | Runaway child | 12. | Delinquent acts of child coerced by parent |
| 6. | Physical harm | | |
| 7. | Sexual abuse | | |